IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19209 of 2004

Between:

T.V.V.M.Murthy, S/o T.Satyanarayana Murthy,
D.No.76-5-7, Balaji Home Street, Bhavanipuram, Vijayawada

..... PETITIONER

AND

Asst.P.F.Commissioner, Employee's Provident Funds,
Sub-Regional Office, 3rd Lane, Krishna Nagar, Guntur

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or orders more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuance of Assessment order No.AP/39794/7A/SRO/GNT/867 dated 26-07-2004 as amounting to highly arbitrary, illegal and unconstitutional

Counsel for the Petitioner: MR.ALLAM.SRINIVAS, Advocate.

Counsel for the Respondent: MR.R.N.REDDY,S.C. for P.F.

The Court made the following:

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Oral Order:

Heard both sides.

Petitioner's establishment was assessed under the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') and the same was served on the petitioner by order dated 26-07-2004. Aggrieved by the said assessment order petitioner filed an application for review under Section 7B of the Act and the same has been rejected through proceedings dated 01-10-2004. In view of the same, petitioner filed the present writ petition questioning the assessment order. Against the said order statutory appeal lies to the Tribunal. Without availing the said remedy petitioner filed the present writ petition, which cannot be entertained.

Having regard to the fact that the appellate tribunal is not functioning, on petitioner depositing 50% of the amount so demanded within eight weeks from the date of receipt of a copy of this order, no coercive steps can be taken for due recovery of the amount. Petitioner can also file appeal against the order passed under Section 7(A) and (B) of the Act before the appellate tribunal. If such an appeal is filed, the appellate tribunal shall not insist for payment of 50% of the demand

amount, on petitioner producing evidence that he has complied with the order passed by this Court and has to decide the appeal on merits. The amount so deposited shall be subject to the result of the appeal filed by the petitioner.

The writ petition is accordingly disposed of. No costs.

_____ A.GOPAL REDDY, J.

14-10-2004

Murthy

ASSISTANT. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.Asst.P.F.Commissioner, Employee's Provident Funds,
Sub-Regional Office, 3rd Lane, Krishna Nagar, Guntur

2.2CD copies